

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

David S. Day,		NOTICE OF DETERMINATION OF
	Complainant,	PRIMA FACIE VIOLATION
vs.		AND
State Senator Michael Jungbauer,		NOTICE OF AND ORDER FOR
	Respondents.	PROBABLE CAUSE HEARING

TO: David Day, 421 Rice Street, Anoka, MN 55303; and Senator Michael Jungbauer, 21212 E. Bethel Boulevard, East Bethel, MN 55011.

On September 13, 2006, David Day filed a Complaint with the Office of Administrative Hearings alleging that State Senator Michael Jungbauer violated Minnesota Statutes §§ 211B.15 and 211B.12. After reviewing the Complaint and attached exhibits, the undersigned Administrative Law Judge has determined that the Complaint sets forth prima facie violations of Minn. Stat. §§ 211B.12 and 211B.15.

THEREFORE, IT IS ORDERED AND NOTICE IS GIVEN that this matter is scheduled for a probable cause hearing to be held by telephone before the undersigned Administrative Law Judge at **4:30 p.m. on Tuesday, September 19, 2006**. The hearing will be held by call-in telephone conference. You must call: 1-800-779-9618 at that time. Follow the directions and enter the numeric pass code **"17509"** when asked for the meeting number. The probable cause hearing will be conducted pursuant to Minn. Stat. § 211B.34. Information about the probable cause proceedings and copies of state statutes may be found online at www.oah.state.mn.us and www.revisor.leg.state.mn.us.

At the probable cause hearing all parties have the right to be represented by legal counsel, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. In addition, the parties have the right to submit evidence, affidavits, documentation and argument for consideration by the Administrative Law Judge. Parties should provide to the Administrative Law Judge all evidence bearing on the case, with copies to the opposing party, before the telephone conference takes place. Documents may be faxed to Judge Neilson at 612-349-2665.

At the conclusion of the probable cause hearing, the Administrative Law Judge will either: (1) dismiss the complaint based on a determination that the complaint is frivolous, or that there is no probable cause to believe that the violation of law alleged in the complaint has occurred; or (2) determine that there is probable cause to believe that the violation of law alleged in the complaint has occurred and refer the case to the Chief Administrative Law Judge for the scheduling of an evidentiary hearing. Evidentiary hearings are conducted pursuant to Minn. Stat. § 211B.35. If the Administrative Law Judge dismisses the complaint, the complainant has the right to seek reconsideration of

the decision on the record by the Chief Administrative Law Judge pursuant to Minn. Stat. § 211B.34, subd. 3.

Any party who needs an accommodation for a disability in order to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, the Administrative Law Judge must be promptly notified. To arrange an accommodation, contact the Office of Administrative Hearings at 100 Washington Avenue South, Suite 1700, Minneapolis, MN 55401, or call 612/341-7610 (voice) or 612/341-7346 (TTY).

Dated: September 14, 2006

/s/ Barbara L. Neilson
BARBARA L. NEILSON
Administrative Law Judge

MEMORANDUM

The Complaint alleges that the Respondent violated Minn. Stat. § 211B.15. Minn. Stat. § 211B.15 prohibits corporations from making contributions to an individual to promote the individual's candidacy or election to political office. The Complainant alleges that Respondent's Volunteer Committee received a donation of \$600 from Anoka Air Charters, Inc., a domestic corporation registered with the Minnesota Secretary of State's Office. The Complainant has attached a campaign finance report filed with the Campaign Finance Board on August 29, 2006, by the Respondent's committee that lists the contribution. The Administrative Law Judge finds that the Complainant has alleged a prima facie violation of Minn. Stat. § 211B.15.

The Complaint also alleges that that some of the expenses reported on Respondent's campaign finance report do not qualify as legal expenditures under Minn. Stat. § 211B.12.

Minn. Stat. § 211B.12 provides as follows:

Use of money collected for political purposes is prohibited unless the use is reasonably related to the conduct of election campaigns, or is a noncampaign disbursement as defined in section 10A.01, subdivision 26. The following are permitted expenditures when made for political purposes:

- (1) salaries, wages, and fees;
- (2) communications, mailing, transportation, and travel;

- (3) campaign advertising;
- (4) printing;
- (5) office and other space and necessary equipment, furnishings, and incidental supplies;
- (6) charitable contributions of not more than \$50 to any charity annually; and
- (7) other expenses, not included in clauses (1) to (6), that are reasonably related to the conduct of election campaigns. In addition, expenditures made for the purpose of providing information to constituents, whether or not related to the conduct of an election, are permitted expenses. Money collected for political purposes and assets of a political committee or political fund may not be converted to personal use.

In the same campaign finance report, the Respondent's Volunteer Committee listed as campaign expenditures, \$812.00 for "Aviation Insurance," \$704.14 for "airplane models" and \$37.25 for "airplane model." The Complainant contends that these expenditures are not reasonably related to the conduct of Respondent's election campaign in violation of Minn. Stat. § 211B.12(7). The Administrative Law Judge finds that the Complainant has alleged a prima facie violation of Minn. Stat. § 211B.12(7).

These allegations will proceed to a probable cause hearing.

B.L.N.